IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1560 OF 2006

Shri Mohan Gabbarsingh Neggy)
aged about 23 yrs., an Indian)
inhabitant having residence at)
Jay Ambika Bhawani Chawl,)
Hanuman Nagar, Kandivali (E),)
Bombay) ...Petitioner

Vs.

The State of Maharashtra)
(At the instance of Samta Nagar)
Police Station)) ...Respondent

Shri M.R.Patil for the Petitioner.

Shri A.S.Shitole, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 15, 2006.

JUDGMENT:

1. Heard the Advocates appearing for the parties.

The challenge in this Petition under Article 227 of the Constitution of India is to the order dated 10th February, 2006 passed by the Deputy Commissioner of police,Mumbai under section 60 of the Bombay Police Act, 1951. By the said order, the Petitioner has been ordered to be externed from Mumbai, Mumbai suburban, Thane and Raigad districts. The challenge is also to an order passed by the Respondent in statutory appeal preferred by the Petitioner.

2. The learned Advocate for the Petitioner submitted that the impugned orders are illegal. He submitted that in any event all the prejudicial activities alleged against the Petitioner were confined to Mumbai sub-urban district and therefore, the order of externment which extends to Thane and Raigad districts is excessive. He placed reliance on decision of this court in the case of **Ganpat @ Ganesh Tanaji Katare Vs. Assistant Commissioner of Police & Ors. (2005 ALLMR(Cri.) Page 2717)**. The learned A.P.P. supported the impugned order by pointing out the grounds on which the said order has been passed.

3. I have considered the submissions. The perusal of the show-cause notice indicates that there are three offences registered against the Petitioner at Samta Nagar Police Station, Mumbai. Reliance has been placed on in-camera statements of two witnesses. The allegations made by the said witnesses are regarding prejudicial activities of the Petitioner in Mumbai suburban district. The impugned order mentions that easy and modes of transport are available for entering Mumbai from Thane, Raigad districts and therefore, the order of externment was being extended to the said districts.

4. In the case of Ganpat @ Ganesh Tanaji Katare (Supra) this court held that there is intimate connection between Mumbai and Thane districts as accepted by the Apex Court in the case of **Pandharinath Shridhar Rangnekar Vs. Deputy Commissioner of Police ((1973) 1 Supreme Court Cases Page 372)**. This court held that merely because easy modes of transport are available and merely because a particular district is geographically close to the area in which prejudicial activities are being carried on, the order of externment cannot be passed in respect of the said District. The area to which order of externment is to operate must be chosen with a view to meet the situation created by objectionable acts of the person sought to be externed. In the present case, apart from availability of easy modes of transport no other reason is given by authority for extending the order of externment to Raigad district.

5. Thus, it is obvious that order of externment is excessive. Therefore, the entire order is vitiated and deserved to be quashed and set aside on the ground that the same is excessive.

6. Hence, I pass the following order:

(i) Rule is made absolute in terms of prayer clauses "B" and "C".

JUDGE